

# BEST AVAILABLE COPY

DECLASSIFIED AND RELEASED BY  
CENTRAL INTELLIGENCE AGENCY  
SOURCES/METHOD/EXEMPTION 3B2B  
NAZI WAR CRIMES DISCLOSURE ACT  
DATE 2008

OGC 65-0010

5 January 1965

## MEMORANDUM FOR THE RECORD

SUBJECT: HEINE v. RAUS - Plaintiff, Federal District Court, Baltimore

Should be  
30 Dec  
by

1. On [redacted] December 1964, a meeting was held with attorneys [redacted] and [redacted] at the latter's office. I was accompanied by [redacted] and RAUS's case officer using the alias, [redacted]. [redacted] was advised in advance that [redacted] was not a true name. The reason for this was to preserve counsel's integrity and leave him free to pursue his client's interest in exposing Marquillet's identity and Agency affiliation.

2. All aspects of the case were discussed in detail. The attorneys wanted and received SR's estimate that they are "99 per cent sure" that HEINE is a KGB agent. They also wanted our estimate of whether plaintiff was serious about prosecuting this suit. I believed that he is, and we are uncertain. Based upon these conclusions, the best tactic was decided to be institution of discovery by the defense at the time the answer is filed.

3. The consequences of requesting HEINE's deposition in Washington immediately are varied. If HEINE fails to respond, he may not proceed with his case. He may be discouraged by the difficulty and possible embarrassment, thereby electing to drop the suit. It will also permit the Agency to explore HEINE's bona fides. On the other hand, it certainly will provoke discovery by the plaintiff regarding certain aspects of the case, e.g., defendant's essential weapons, i.e., the CIA will not fully appreciate his story.

4. It was concluded that truth shall not be made the basis of defense. Alleging and failing to prove plaintiff's identity is damages under Maryland law. The charge that plaintiff is a KGB agent cannot be proved, even with classified information.

# BEST AVAILABLE COPY

5. The possibility of Government intervention to protect classified information by the Department of Justice was raised but later dismissed by the DDCI for policy reasons.

6. Counsel was again informed that CIA would resist disclosure and refuse to supply witnesses or documents to the defense. We would, however, supply further information on some named individuals, and DD is currently preparing the same. (DD will check on the citizenship of Kendall, using his 1961 U.S. Income Tax Return).

7. RAUS will defend on several grounds, one of which is qualified privilege. His publications was, in this instance, a soldier Estonians who have an interest to be protected and was in the Estonian language. RAUS must then show that he had reasonable grounds to believe that what he said was true. Here he may rely on overt evidence tending to show that L.M. H's story was reported in a sinister manner. However, this is hardly convincing to a lay jury. Thus, he is also not forced to say that L.M. told him L.M. was an Agent and hope that the Jury believed his version of the facts.

8. Other grounds of defense shall be the First Amendment, public policy, dental, the statute of limitations, and possibly witness privilege or retraction. In view of the facts, it would seem that all possible grounds of defense have been exhausted.

L  
Office of General Counsel

cc: SR/CI  
SR/K/AC

Dave FICHE

# BEST AVAILABLE COPY

SEARCHED INDEXED SERIALIZED FILED

by J. M.

On Thursday 5 June of the year 1970, I was in the vicinity of my usual bus station on my way home. At approximately 11:00 AM, about ten minutes until the bus departure time, I was walking across the street and approaching a small, unoccupied, double-decker bus which had been recently cleaned and parked in my vicinity and kept standing in one direction. When I approached it, he was standing near the rear, leaning off to my direction and talking out. When I entered the street to walk about fifteen feet away, he I started to walk in his direction, he turned around and hurried around the corner, disappearing into the building bus station. As I entered the bus station, he had disappeared.

Description: About 5 feet 6 inches, 170 lbs. age: early thirties, brown wavy hair, square-jawed face with prominent features. Wearing a black miniskirt, no hat.

Dave Banks.